

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

NOAH DON FAVRE

PLAINTIFF

V.

CIVIL ACTION NO. 1:21-cv-328-TBM-BWR

HARRISON COUNTY, MISSISSIPPI, *et al.*

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on submission of the Report and Recommendation [59] entered by United States Magistrate Judge Bradley W. Rath on March 27, 2023. Judge Rath recommends that the Motion [46] to Dismiss or, in the Alternative, for Summary Judgment filed by Defendants Memorial Hospital and Dana Jones should be granted in part and denied in part. In the Report and Recommendation, Judge Rath explains that Favre “failed to comply with the MTCA’s notice requirements, [and] cannot maintain his negligence and medical-malpractice claims against Memorial Hospital.” [59], p. 8. As to Defendant Dana Jones, Judge Rath concluded Jones should not be dismissed as the Motion “does not contemplate the proper Dana Jones.” [59], p. 8. “[T]he Dana Jones that currently works for Memorial Hospital is *not* a Defendant in this lawsuit.” *Id.* at 9. Therefore, “Favre’s claims against the properly named Dana Jones should proceed.” *Id.* The Plaintiff has not filed an objection to the Report and Recommendation, and the time for filing an objection has expired.

“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72(b) advisory committee’s note to 1983 addition (citations omitted); *see Casas v. Aduddell*, 404 F. App’x 879, 881 (5th Cir. 2010) (affirming district court’s dismissal of Section 1983 claims and stating that


“[w]hen a party fails timely to file written objections to the magistrate judge’s proposed findings, conclusions, and recommendation, that party is barred from attacking on appeal the unobjected-to proposed findings and conclusions which the district court accepted, except for plain error”) (citing *Douglass v. United Serv. Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1)); *Douglass*, 79 F.3d at 1430 (affirming district court’s grant of summary judgment). Having considered Judge Rath’s Report and Recommendation, the Court finds neither is clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Report and Recommendation [59] entered by United States Magistrate Judge Bradley W. Rath on March 27, 2023, is ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Motion [46] to Dismiss or, in the Alternative, for Summary Judgment is GRANTED IN PART and DENIED IN PART.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff’s claims against Defendant Memorial Hospital are DISMISSED.

THIS, the 28th day of June, 2023.


TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE